

Dianne C. Kerns, Trustee  
Office of Chapter 13 Bankruptcy  
PMB #413  
7320 N. La Cholla #154  
Tucson, AZ 85741  
Telephone (520) 544-9094

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA

|                |   |   |
|----------------|---|---|
| IN RE:         | ) | CHAPTER 13 PROCEEDINGS                      |
| RALPH F GARCIA | ) | CASE NO.: 09-33587-TUC-JMM                  |
| DIANE M GARCIA | ) |   |
|                | ) | <b>TRUSTEE'S MOTION TO DISMISS</b>          |
|                | ) | <b>FOR DELINQUENT PLAN PAYMENTS</b>         |
|                | ) | <b>and</b>                                  |
|                | ) | <b>NOTICE OF INTENT TO LODGE</b>            |
| DEBTORS        | ) | <b>ORDER DISMISSING CASE <u>WITHOUT</u></b> |
|                |   | <b><u>A HEARING;</u></b>                    |

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**PLEASE READ THIS MOTION / NOTICE CAREFULLY  
THIS MOTION MAY BE GRANTED WITHOUT FURTHER NOTICE OR HEARING  
YOUR RIGHTS MAY BE ALTERED BY FAILING TO RESPOND**

Dianne C. Kerns, Trustee in the above-captioned estate, hereby moves the Court for an order dismissing the above-captioned case on the grounds that the Debtors are delinquent in one or more plan payments (1). **The amount of the current plan payment delinquency is: \$3,351.16.** The Trustee hereby gives notice of her intent to lodge an order dismissing this case, without further notice of hearing, unless the Debtors complete one of the following **within 30 days of the mailing of this motion:**

- (a) Make payment to the Trustee of the full amount stated as delinquent PLUS any additional amounts that subsequently come due. (2)
- (b) File and serve a notice of conversion to Chapter 7; or
- (c) File and serve a request for a moratorium of delinquent plan payments (preferably in the form of an amended/modified plan using Local Plan form 13-2)

If the Debtors fail to timely do one of the above, the Trustee is specifically authorized to upload an order dismissing the case and **the Court may summarily dismiss the case without further notice or hearing.** LRB# 2084-15 (3)

Dated: April 14, 2011

/s/ Dianne C. Kerns 011557

Dianne C. Kerns, Esq.  
Chapter 13 Trustee

CASE NO.: 09-33587-TUC-JMM

Copy of the foregoing electronically filed with U.S. Bankruptcy Court this April 14, 2011  
All parties will receive notice from the court including the following:

RALPH F GARCIA  
DIANE M GARCIA  
7370 S VIA DEL PROMONTORIO  
TUCSON, AZ 85746

KATHRYN JOHNSON  
LAW OFFICE OF KATHRYN L JOHNSON  
4337 E FIFTH ST  
TUCSON, AZ 85711

Prepared by Betty Norton

**1** See Local Rules of Bankruptcy Procedure for the District of Arizona ("LRBP") Rule 2084-15. The Court provided notice of the local rules at commencement of this case in a document entitled "Notice of Certain Provisions of Local Bankruptcy Rules 2084-1 through 2084-26", which document was attached to the "Notice of Chapter 13 Bankruptcy Case, Meeting of Creditors, deadlines." The local rules may also be viewed at [www.asb.uscourts.gov](http://www.asb.uscourts.gov)

**2** Payments should be mailed to Dianne C. Kerns, Trustee, P.O. Box 366, Memphis TN 38101-0366. Cashiers checks or money orders only. Debtors do not need to send a confirmation copy of payments to the Trustee's office. Debtors may confirm that the Trustee has received payments by logging onto [www.13datacenter.com](http://www.13datacenter.com) or [www.13network.com](http://www.13network.com). In general, the information on these websites is 24-hours old.

**3** Not earlier than 30 + 7 days after the mailing of this motion, the Trustee will determine whether to upload an order dismissing by (1) reviewing the court docket for conversions, extensions, objections, and/or moratoriums; and (2) reviewing the status of plan payments received by the Trustee's bank. The Debtors may object to the proposed dismissal order, by following the procedures in LRPB 2084-16. If the Court dismisses the case on this motion, the Debtors may seek reinstatement by following the procedures in LRBP 2084-17. The Trustee will only approve the reinstatement if the plan payments are current. If the Trustee does not approve the order of reinstatement the Debtors must set the reinstatement for hearing.

## RECEIPT HISTORY

| RECEIPT DATE | RECEIPT SOURCE | RECEIPT DESCRIPTION         | RECEIPT AMOUNT |
|--------------|----------------|-----------------------------|----------------|
| Jan 27, 2010 | 9248402247     | CASHIER'S CHECK FROM DEBTOR | 2,965.00       |
| Feb 25, 2010 | 20203970997    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 25, 2010 | 20203970998    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 25, 2010 | 20203970521    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 25, 2010 | 20203970522    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 25, 2010 | 20203970909    | MONEY ORDER FROM DEBTOR     | 450.00         |
| Feb 25, 2010 | 20203970999    | MONEY ORDER FROM DEBTOR     | 510.00         |
| Feb 25, 2010 | 6868379519     | MONEY ORDER FROM DEBTOR     | 5.00           |
| Mar 29, 2010 | 20230020024    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Mar 29, 2010 | 20230020025    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Mar 29, 2010 | 20230020586    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Mar 29, 2010 | 20230020587    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Mar 29, 2010 | 20230020588    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Mar 29, 2010 | 6867330790     | MONEY ORDER FROM DEBTOR     | 465.00         |
| May 03, 2010 | 20230021298    | MONEY ORDER FROM DEBTOR     | 750.00         |
| May 03, 2010 | 20245253682    | MONEY ORDER FROM DEBTOR     | 565.00         |
| May 03, 2010 | 20245253683    | MONEY ORDER FROM DEBTOR     | 500.00         |
| May 03, 2010 | 20245254046    | MONEY ORDER FROM DEBTOR     | 950.00         |
| May 03, 2010 | 20245254047    | MONEY ORDER FROM DEBTOR     | 200.00         |
| Jun 01, 2010 | 20245254901    | MONEY ORDER FROM DEBTOR     | 750.00         |
| Jun 01, 2010 | 20245254902    | MONEY ORDER FROM DEBTOR     | 715.00         |
| Jun 01, 2010 | 20245254549    | MONEY ORDER FROM DEBTOR     | 750.00         |
| Jun 01, 2010 | 20245254548    | MONEY ORDER FROM DEBTOR     | 750.00         |
| Aug 02, 2010 | 6886343539     | MONEY ORDER FROM DEBTOR     | 476.37         |
| Aug 02, 2010 | 6886343538     | MONEY ORDER FROM DEBTOR     | 900.00         |
| Aug 02, 2010 | 20210532749    | MONEY ORDER FROM DEBTOR     | 600.00         |
| Aug 02, 2010 | 20210532750    | MONEY ORDER FROM DEBTOR     | 600.00         |
| Aug 27, 2010 | 20219553159    | MONEY ORDER FROM DEBTOR     | 776.37         |
| Aug 27, 2010 | 20219553158    | MONEY ORDER FROM DEBTOR     | 900.00         |
| Aug 27, 2010 | 20219553157    | MONEY ORDER FROM DEBTOR     | 900.00         |
| Sep 29, 2010 | 20251941717    | MONEY ORDER FROM DEBTOR     | 676.37         |
| Sep 29, 2010 | 20251941716    | MONEY ORDER FROM DEBTOR     | 950.00         |
| Sep 29, 2010 | 20251941715    | MONEY ORDER FROM DEBTOR     | 950.00         |
| Nov 01, 2010 | 14187951430    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Nov 01, 2010 | 14187951431    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Nov 01, 2010 | 14187951432    | MONEY ORDER FROM DEBTOR     | 300.00         |
| Dec 02, 2010 | 20296502273    | MONEY ORDER FROM DEBTOR     | 900.00         |
| Dec 02, 2010 | 20296502274    | MONEY ORDER FROM DEBTOR     | 400.00         |
| Feb 01, 2011 | 14254274148    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 01, 2011 | 14254274149    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 01, 2011 | 14254274150    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 01, 2011 | 14254274151    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 01, 2011 | 14254274152    | MONEY ORDER FROM DEBTOR     | 500.00         |
| Feb 01, 2011 | 14254274153    | MONEY ORDER FROM DEBTOR     | 175.58         |
| Mar 08, 2011 | 20312113493    | MONEY ORDER FROM DEBTOR     | 200.00         |
| Mar 08, 2011 | 20312113491    | MONEY ORDER FROM DEBTOR     | 900.00         |
| Mar 08, 2011 | 20312113492    | MONEY ORDER FROM DEBTOR     | 900.00         |

TOTAL RECEIPTS 29,829.69